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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----  
ROCKLAND VENDING CORP.,

Plaintiff,

-against-

ROXANNE CREEN, sued in her individually  
capacity; MARSHA F. RILEY, sued in her  
individually capacity; STEWART KIDDER, sued  
in his individually capacity,

Defendants.

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101 East Post Road

White Plains, New York

November 6, 2007

10:15 A.M.

EXAMINATION BEFORE TRIAL of ROCKLAND  
VENDING CORP. by KEN GALLAGHER held at the  
above place and time, before a Notary Public  
within and for the State of New York.

IRMA K. NAVARRO,

Reporter

1  
2 APPEARANCES OF COUNSEL:  
3  
4 MICHAEL SUSSMAN, ESQ.  
5 Attorney for Plaintiff  
6 P.O. Box 1005  
7 Goshen, New York 10924  
8  
9  
10  
11 STATE OF NEW YORK  
12 OFFICE OF ATTORNEY GENERAL  
13 ANDREW M. CUOMO  
14 Attorney for Defendants  
15 120 Broadway  
16 New York, New York 10271-0332  
17  
18  
19 BY: DANIEL SCHULZE, ESQ.  
20  
21  
22 ALSO PRESENT:  
23 ROXANNE CREEN  
24 MICHAEL FREED  
25

[Page 2]

1 GALLAGHER  
2 K E N G A L L A G H E R ,  
3 having been first duly sworn  
4 by Irma K. Navarro, a Notary  
5 Public within and for the State  
6 of New York, was examined and  
7 testified as follows:  
8  
9 oOo  
10 EXAMINATION CONDUCTED  
11 BY MR. SCHULZE:

12 Q. State your name and address for  
13 the record, please.  
14 A. Ken Gallagher, 172 Watersedge,  
15 Montgomery, New York 12549.  
16 Q. Good morning, Mr. Gallagher.  
17 A. Good morning.  
18 Q. My name is Dan Charles. I'm from  
19 the New York State Attorney General. I  
20 represent the Defendants in this case. Do  
21 you understand that?  
22 A. Yes.  
23 Q. You're represented by counsel  
24 today?  
25 A. Yes.

[Page 4]

1  
2 IT IS HEREBY STIPULATED AND  
3 AGREED, by and between the attorneys for the  
4 respective parties herein, that the sealing  
5 and filing of the within deposition be  
6 waived.  
7  
8

9 IT IS FURTHER STIPULATED AND  
10 AGREED that this deposition may be signed and  
11 sworn to before any officer authorized to  
12 administer an oath with the same force and  
13 effect as if signed and sworn to before the  
14 officer before whom said deposition is taken.  
15  
16

17 IT IS FURTHER STIPULATED AND  
18 AGREED that all objections, except as to  
19 form, are reserved to the time of trial.  
20  
21  
22  
23  
24  
25

[Page 3]

1 GALLAGHER  
2 Q. Who is that?  
3 A. Mr. Sussman.  
4 Q. Mr. Freed is here with you as  
5 well?  
6 A. Yes.  
7 Q. And Roxanne Creen, the Defendant  
8 is here on our side. What did you do to  
9 prepare for today's deposition?  
10 A. I discussed it with Mr. Sussman.  
11 Q. Did you also discuss it with  
12 Mr. Freed?  
13 A. Yes.  
14 Q. Did you ever have a conversation  
15 with Mr. Freed when Mr. Sussman wasn't  
16 present about this?  
17 A. No.  
18 Q. Was Mr. Freed present when you  
19 discussed your deposition with Mr. Sussman?  
20 A. Yes.  
21 Q. Did you discuss Mr. Freed's  
22 testimony in the course of that meeting?  
23 A. No.  
24 Q. Were you aware that Mr. Freed had  
25 been deposed in this case?

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[2] (Pages 2 to 5)

<p>1                   <b>GALLAGHER</b></p> <p>2     A. Not until recently, yes, as far as</p> <p>3 today.</p> <p>4     Q. When did you become aware of that?</p> <p>5     A. I mean as far as -- what was that?</p> <p>6 I didn't understand. I'm sorry.</p> <p>7     Q. Did you understand that Mr. Freed</p> <p>8 had been deposed?</p> <p>9     A. No.</p> <p>10    Q. Do you understand this is a</p> <p>11 deposition?</p> <p>12    A. Yes.</p> <p>13    Q. Did you understand that Mr. Freed</p> <p>14 went through the same process?</p> <p>15    A. Not recently, today. I normally</p> <p>16 don't have any conversation with Mr. Freed</p> <p>17 because by the time I work and he's -- I</p> <p>18 didn't know until today about last week that</p> <p>19 he was deposed, yes.</p> <p>20    Q. When did you meet with your</p> <p>21 counsel?</p> <p>22    A. Today.</p> <p>23    Q. Had you met with your counsel</p> <p>24 prior to today?</p> <p>25    A. No.</p>	<p>1                   <b>GALLAGHER</b></p> <p>2 the lawsuit being about Rockland Vending.</p> <p>3     A. From the beginning.</p> <p>4     Q. When is the beginning?</p> <p>5     A. Since it happened.</p> <p>6     Q. What date?</p> <p>7     A. Back in May when it happened.</p> <p>8     Q. You wanted to sue someone since</p> <p>9 back in May?</p> <p>10    A. Yes.</p> <p>11    Q. Who did you want to sue?</p> <p>12    A. Them because -- the facility,</p> <p>13 because they shouldn't have done that in the</p> <p>14 beginning.</p> <p>15    Q. Anybody else?</p> <p>16    A. Do I want to go around suing</p> <p>17 people, no.</p> <p>18    Q. Are you on any medication today?</p> <p>19    A. No.</p> <p>20    Q. Is there any reason why you can't</p> <p>21 give full and accurate testimony today?</p> <p>22    A. Should be none.</p> <p>23    Q. You're currently employed by</p> <p>24 Rockland Vending; is that correct?</p> <p>25    A. Yes.</p>
[Page 6]	[Page 8]

<p>1                   <b>GALLAGHER</b></p> <p>2     MR. SUSSMAN: Ever or just to</p> <p>3 prepare for a deposition?</p> <p>4     MR. SCHULZE: Ever.</p> <p>5     A. Yes.</p> <p>6     Q. How many times have you met with</p> <p>7 your counsel?</p> <p>8     A. Twice.</p> <p>9     Q. Twice total?</p> <p>10    A. Yes.</p> <p>11    Q. When was the first time?</p> <p>12    A. We had -- what happened -- we</p> <p>13 discussed what happened.</p> <p>14    Q. Don't tell me what you said. Just</p> <p>15 tell me when you met.</p> <p>16    A. Back in June.</p> <p>17    Q. June of this year?</p> <p>18    A. Yes.</p> <p>19    Q. When did you decide to become a</p> <p>20 Plaintiff in this case?</p> <p>21    A. It's been all me since the</p> <p>22 beginning.</p> <p>23     MR. SUSSMAN: He means when did</p> <p>24 you decide to join the lawsuit and be a party</p> <p>25 to the lawsuit personally rather than just</p>	<p>1                   <b>GALLAGHER</b></p> <p>2     Q. How long have you been working for</p> <p>3 Rockland Vending?</p> <p>4     A. Slightly over a year.</p> <p>5     Q. Is that a full-time job?</p> <p>6     A. Yes.</p> <p>7     Q. Slightly over a year. Can you</p> <p>8 give me a starting date?</p> <p>9     A. Back in June so it's been a year</p> <p>10 and -- say 16 months.</p> <p>11    Q. June of 2006 is when you started?</p> <p>12    A. Yes.</p> <p>13    Q. When you started what were your</p> <p>14 duties?</p> <p>15    A. Same duties I have now. Fill the</p> <p>16 vending machines, service the vending</p> <p>17 machines.</p> <p>18    Q. You drive a truck?</p> <p>19    A. Yes.</p> <p>20    Q. Do you collect money from vending</p> <p>21 machines?</p> <p>22    A. Do I collect money from vending</p> <p>23 machines, yes, to go to Mr. Freed.</p> <p>24    Q. You have food stocks in your truck</p> <p>25 that you replenish the machines with?</p>
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[3] (Pages 6 to 9)

<p>1                   <b>GALLAGHER</b></p> <p>2     A. Yes.</p> <p>3     Q. You go into correctional</p> <p>4     facilities to do this?</p> <p>5     A. Yes.</p> <p>6     Q. What facilities are on your route?</p> <p>7     A. I used to do Shawangunk and I do</p> <p>8     Fishkill.</p> <p>9     Q. In June of 2006 you did Shawangunk</p> <p>10    and Fishkill; is that correct?</p> <p>11    A. Yes.</p> <p>12    Q. Any others?</p> <p>13    A. That's it.</p> <p>14    Q. Did you have any locations on your</p> <p>15    route that weren't correctional facilities?</p> <p>16    A. Yes.</p> <p>17    Q. What are they?</p> <p>18        MR. SUSSMAN: Hold on. You</p> <p>19    mean now or then just so we are clear?</p> <p>20        MR. SCHULZE: In June of 2006.</p> <p>21        MR. SUSSMAN: When you started.</p> <p>22    A. Yes, yes.</p> <p>23    Q. What were the other locations?</p> <p>24    A. One was a privately-owned</p> <p>25    business.</p>	<p>1                   <b>GALLAGHER</b></p> <p>2     A. What day because it differs?</p> <p>3     Q. How does it differ day by day?</p> <p>4     A. Some days I do -- I did -- like</p> <p>5     Shawangunk I did Monday, Wednesday and</p> <p>6     Friday. Then Tuesday I would do Fishkill and</p> <p>7     Thursday, too, so it would differ. It would</p> <p>8     differ week to week. Sometimes there were</p> <p>9     shorter weeks, sometimes there were longer</p> <p>10    weeks.</p> <p>11    Q. Okay. The start of May 2007, what</p> <p>12    were your stops on Mondays?</p> <p>13    A. (No response).</p> <p>14        MR. SUSSMAN: In addition to</p> <p>15    Shawangunk, what other stops you had on</p> <p>16    Mondays.</p> <p>17    A. Hudson Psychiatric Center. Then I</p> <p>18    would go to Shawangunk. Then I would go to</p> <p>19    Fair Right. Then I would go to Valley</p> <p>20    Central.</p> <p>21    Q. Was this the path you took on</p> <p>22    Wednesdays and Fridays also?</p> <p>23    A. Give or take, yes.</p> <p>24    Q. What was your path on Tuesdays?</p> <p>25    A. Tuesday would be Fishkill so I</p>
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[Page 12]

<p>1                   <b>GALLAGHER</b></p> <p>2     Q. What?</p> <p>3     A. Fair Right.</p> <p>4     Q. Where was that?</p> <p>5     A. It's in -- it's in Walden.</p> <p>6        MR. SUSSMAN: W-A-L-D-E-N.</p> <p>7     Q. Anywhere else?</p> <p>8     A. Valley Central which is a high</p> <p>9     school on 17K.</p> <p>10    Q. Anything else?</p> <p>11    A. That was pretty much it for that</p> <p>12    day I think.</p> <p>13    Q. So you had five locations on your</p> <p>14    route in June of 2006?</p> <p>15    A. Yes.</p> <p>16    Q. How long did it take to complete</p> <p>17    your route?</p> <p>18    A. I want to say like three o'clock.</p> <p>19    Probably eight hours, nine hours.</p> <p>20    Q. How many days did you work?</p> <p>21    A. I worked five days a week.</p> <p>22    Q. Which days?</p> <p>23    A. Monday through Friday.</p> <p>24    Q. At the start of May 2007, how many</p> <p>25    locations were on your route?</p>	<p>1                   <b>GALLAGHER</b></p> <p>2     would go over to Fishkill first, then I would</p> <p>3     do Newburgh Auction.</p> <p>4        MR. SUSSMAN: Finish.</p> <p>5     A. That would be pretty much the day.</p> <p>6     Q. On a typical day over the period</p> <p>7     January to May 2007, how long would you spend</p> <p>8     at Shawangunk on a given day?</p> <p>9     A. On a Monday, it would be in and</p> <p>10    out. I should have spent 45 minutes.</p> <p>11    Q. How about Wednesdays and Fridays?</p> <p>12    A. Wednesday I would have cold food</p> <p>13    so it would be a little longer.</p> <p>14    Q. About how long?</p> <p>15    A. An hour, an hour and 15 minutes.</p> <p>16    Q. Fridays?</p> <p>17    A. Fridays should be -- I would be in</p> <p>18    and out. 45 minutes, something like that.</p> <p>19    Q. What did you do at Shawangunk on</p> <p>20    Mondays?</p> <p>21    A. Mondays I collected the machines,</p> <p>22    I serviced the machines.</p> <p>23    Q. When you say collected and</p> <p>24    serviced the machines, what do you mean?</p> <p>25    A. I go in there, I inventory, I</p>
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[Page 13]

[4] (Pages 10 to 13)

1                   **GALLAGHER**  
 2 collected as far as money wise and I  
 3 serviced. The way they broke it up, there's  
 4 different parts of Shawangunk that you did it  
 5 throughout the week. That's what you would  
 6 do.

7                   **Q.** On Mondays, you did all the  
 8 machines in Shawangunk?

9                   **A.** No.

10                  **Q.** Which machines at Shawangunk did  
 11 you do on Mondays?

12                  **A.** I would do the visitor room and  
 13 one or two of the machines in the employee  
 14 lounge.

15                  **Q.** Which ones?

16                  **A.** I want to say one was the cold  
 17 food and one was a glass front which is a  
 18 snack machine.

19                  **Q.** Describe what you do for the  
 20 machines in the visiting room on Mondays?

21                  **A.** You -- you get out of the truck,  
 22 load the cart with what I need, I sign the  
 23 book, go to Shawangunk, went on the path. By  
 24 the time you're done in the visiting room,  
 25 you go in there and you start over the

[Page 14]

1                   **GALLAGHER**  
 2                  **Q.** So it's possible to determine from  
 3 the meter reading how much had been sold but  
 4 you can't make that determination?  
 5                  **A.** I can't make that determination.  
 6 It's not my job.

7                  **Q.** But part of your job is take down  
 8 the reading when you collect the money; is  
 9 that correct?

10                 **A.** Yes.

11                 **Q.** You should wait until I finish the  
 12 question. I might not be asking what you  
 13 think I'm going to be asking.

14                 **A.** Okay.

15                 **Q.** What machines did you service on  
 16 Wednesdays at Shawangunk?

17                 **A.** Visit room and the employee  
 18 lounge.

19                 **Q.** You serviced all the machines in  
 20 the visiting room on Wednesday?

21                 **A.** I was supposed to.

22                 **Q.** Go ahead.

23                 **A.** But after this incident, I didn't.

24                 **Q.** We are just talking about before  
 25 this incident.

[Page 16]

1                   **GALLAGHER**  
 2 machine, you inventory, collect and service  
 3 what they need. Let's say if they needed ten  
 4 chips, you put the chips in the machine or  
 5 whatever, you filled it up. Then you go on  
 6 to the next machine. It's, you know, on to  
 7 the next machine and so forth and so on.

8                  **Q.** How about money in the machine?

9                  **A.** What you did, you write down your  
 10 meter reading on a paper, take the meter  
 11 reading on this little slip, that slip goes  
 12 into the money bag. You put your money in  
 13 there. You zip it up and you're done with  
 14 that machine. Then you go on to the next one  
 15 and so on.

16                  **Q.** You have a separate bag for each  
 17 machine?

18                  **A.** Yes.

19                  **Q.** When you take down the meter  
 20 reading, does that allow you to determine how  
 21 many items were sold?

22                  **A.** When I took down the meter  
 23 reading, I take it back to the office, they  
 24 figure out how much they sold. I don't do  
 25 anything like that.

[Page 15]

1                   **GALLAGHER**  
 2                  **A.** Okay.  
 3                  **Q.** In the employee lounge, did you  
 4 service all the machines in the employee  
 5 lounge on Wednesdays?

6                  **A.** No, there's five machines in  
 7 there. I did three.

8                  **Q.** Which three?

9                  **A.** The cold food machine because that  
 10 was a deli thing. The glass front and  
 11 there's a soda machine.

12                  **Q.** On Fridays, which machine did you  
 13 service at Shawangunk?

14                  **A.** I would do all of them, I would  
 15 touch all of them. There was one when you  
 16 walked in the administration building,  
 17 trailer, whatever it was. I would do the  
 18 visiting room and I would do the break room.

19                  **Q.** What is the break room?

20                  **A.** Employee lounge, break room.

21                  **Q.** Do you collect monies then from  
 22 all the machines in the visiting room on  
 23 Mondays, Wednesdays and Fridays?

24                  **A.** Not on Fridays. Only Monday and  
 25 Wednesday. But it would be certain things.

[Page 17]

[5] (Pages 14 to 17)

<p>1           <b>GALLAGHER</b></p> <p>2 They would have a breakdown by ticket.</p> <p>3   <b>Q.</b> Did you have any difficulties with</p> <p>4 anyone at the Fishkill Correctional Facility?</p> <p>5   <b>A.</b> No, sir.</p> <p>6   <b>Q.</b> Prior to May of 2007, did you have</p> <p>7 any difficulties at the Shawangunk</p> <p>8 Correctional Facility?</p> <p>9   <b>A.</b> No, sir.</p> <p>10   <b>Q.</b> What is your current route?</p> <p>11   <b>A.</b> What was that?</p> <p>12   <b>Q.</b> What is your current route?</p> <p>13   <b>A.</b> I still do Fishkill. Mondays I do</p> <p>14 Fair Right, Spence.</p> <p>15   <b>Q.</b> What is Spence?</p> <p>16   <b>A.</b> It's like a little engineering</p> <p>17 business.</p> <p>18   <b>Q.</b> Go on.</p> <p>19   <b>A.</b> Valley Central, Ellenville High</p> <p>20 School and Middle School and every two weeks</p> <p>21 I do Orange County Airport.</p> <p>22   <b>Q.</b> Are you aware that Rockland</p> <p>23 Vending Corporation declared bankruptcy?</p> <p>24   <b>A.</b> Yes.</p> <p>25   <b>Q.</b> Does that affect your</p>	<p>1           <b>GALLAGHER</b></p> <p>2   <b>A.</b> It's dropped.</p> <p>3   <b>Q.</b> When did it drop?</p> <p>4   <b>A.</b> When we lost Shawangunk, I lost a</p> <p>5 good chunk of money out of that.</p> <p>6   <b>Q.</b> Your salary dropped?</p> <p>7   <b>A.</b> My commission dropped. My salary</p> <p>8 dropped, my commission dropped.</p> <p>9   <b>Q.</b> Listen to the question. Has your</p> <p>10 salary changed at all in 2007?</p> <p>11           <b>MR. SUSSMAN:</b> Note my</p> <p>12 objection.</p> <p>13   <b>A.</b> No.</p> <p>14           <b>MR. SUSSMAN:</b> Go ahead and</p> <p>15 answer.</p> <p>16   <b>A.</b> No.</p> <p>17   <b>Q.</b> How do you calculate the</p> <p>18 commissions you get paid?</p> <p>19   <b>A.</b> I don't. That's between whatever</p> <p>20 business and my boss and they break it down</p> <p>21 from that and I get a commission from that.</p> <p>22   <b>Q.</b> Do you have any understanding what</p> <p>23 that commission is?</p> <p>24   <b>A.</b> Yes.</p> <p>25   <b>Q.</b> What is your understanding?</p>
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[Page 20]

<p>1           <b>GALLAGHER</b></p> <p>2 compensation?</p> <p>3   <b>A.</b> Yes.</p> <p>4   <b>Q.</b> How did it affect your</p> <p>5 compensation?</p> <p>6   <b>A.</b> When we lost Shawangunk that was a</p> <p>7 big chunk of the money because I got paid on</p> <p>8 commission so losing Shawangunk I lost that</p> <p>9 commission on those machines.</p> <p>10   <b>Q.</b> How did the bankruptcy affect your</p> <p>11 income?</p> <p>12   <b>A.</b> I have less product to put in the</p> <p>13 machines and I would -- because my route got</p> <p>14 smaller with being bankrupt because of losing</p> <p>15 the prisons so I don't make as much money as</p> <p>16 I normally did.</p> <p>17   <b>Q.</b> You get paid a salary?</p> <p>18   <b>A.</b> I get a salary and a commission.</p> <p>19   <b>Q.</b> You get paid a salary then; is</p> <p>20 that correct?</p> <p>21   <b>A.</b> Yes.</p> <p>22   <b>Q.</b> Has your salary changed in 2007 at</p> <p>23 all?</p> <p>24   <b>A.</b> Yes.</p> <p>25   <b>Q.</b> How has it changed?</p>	<p>1           <b>GALLAGHER</b></p> <p>2   <b>A.</b> That when I was first hired how I</p> <p>3 was -- the amount of the commission was</p> <p>4 either two or five percent. I can't remember</p> <p>5 which one it was.</p> <p>6   <b>Q.</b> Two or five percent of what?</p> <p>7   <b>A.</b> Of whatever the machines make.</p> <p>8   <b>Q.</b> You get two or five percent of</p> <p>9 whatever the machines make at the facilities</p> <p>10 on your route; is that correct?</p> <p>11   <b>A.</b> Yes.</p> <p>12   <b>Q.</b> So if there are more facilities on</p> <p>13 your route you make more money and if there</p> <p>14 are fewer, you make less money; is that</p> <p>15 correct?</p> <p>16   <b>A.</b> Yes, yes.</p> <p>17   <b>Q.</b> What percentage of your salary is</p> <p>18 commission and what percentage is salary?</p> <p>19   <b>A.</b> (No response).</p> <p>20   <b>Q.</b> On average.</p> <p>21   <b>A.</b> (No response).</p> <p>22           <b>MR. SUSSMAN:</b> Do you understand</p> <p>23 what he's asking you?</p> <p>24           <b>THE WITNESS:</b> No.</p> <p>25   <b>Q.</b> Is the majority of your pay in the</p>
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[Page 21]

[6] (Pages 18 to 21)

1                   **GALLAGHER**  
 2 form of commission or salary?  
 3     A. Salary.  
 4     Q. What percentage of your pay is in  
       the form of salary approximately?  
 5       MR. SUSSMAN: You can give him  
       real numbers if it's easier. On a week by  
       week basis, you have a certain amount coming  
       in in salary and in commission. He's asking  
       you what is the relationship between those  
       two, if you know.  
 12    A. Normal salary is 325, 350.  
 13    Q. For what?  
 14    A. For salary.  
 15    Q. Over what period of time?  
 16    A. That's just a base salary.  
 17    Q. Per day, per month?  
 18    A. Per week.  
 19    Q. Thank you.  
 20    A. Per week. Commission what I  
       normally make, I make -- altogether I make  
       like 600 bucks but after taxes I bring home  
       about 455.  
 24    Q. On a typical day when you arrive  
       at Shawangunk, where would you enter?

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1                   **GALLAGHER**  
 2     A. Yes.  
 3     Q. What happens next?  
 4       A. You sign in, you get stamped, they  
       stamp that you're a visitor. You go down the  
       hallway, the gate is locked so you have to  
       wait until they open the gate. Then you go  
       through another set of gates. You wait for  
       them. You show the stamp, it's a fluorescent  
       stamp, and you go into whatever section you  
       need to go into. If you're going into the  
       visit room, you go into the visit room. If  
       you want to go to the employee lounge, you do  
       that.  
 15    Q. On a typical day would you have an  
       escort?  
 17    A. No, I never had an escort. There  
       was more than enough officers usually around  
       there.  
 20    Q. What do you mean by that?  
 21    A. There's usually officers at every  
       post. At every gate there's an officer.  
 23    Q. At every security gate?  
 24    A. Yes.  
 25    Q. Is there a security gate at the

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1                   **GALLAGHER**  
 2     A. Right to the trailer.  
 3     Q. What is the trailer?  
 4     A. Where you sign in. It's like the  
       administration building.  
 6     Q. Visitors entrance?  
 7     A. Yes.  
 8     Q. Is it marked visitors entrance?  
 9     A. Yes.  
 10    Q. What did you do when you go into  
       the visitors entrance?  
 12    A. You go in, you sign in the time,  
       where you're from, just who you are, you show  
       ID. They stamp your hand that you're a  
       visitor and you go on.  
 16    Q. Where do you sign in, is there a  
       book?  
 18    A. There's a book right there.  
 19    Q. Is there a book at a desk?  
 20    A. Yes.  
 21    Q. Is there an officer who is  
       standing there with the book?  
 23    A. Yes.  
 24    Q. Do you yourself sign in when you  
       enter the facility?

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1                   **GALLAGHER**  
 2       visiting room?  
 3     A. Yes.  
 4     Q. Is there a security gate at the  
       employee lounge?  
 6     A. No.  
 7     Q. What time did you arrive at  
       Shawangunk on May 9, 2007?  
 9     A. Had to be after seven. Between  
       seven and eight.  
 11    Q. A.m.?  
 12    A. Yes.  
 13    Q. You were in a truck; is that  
       correct?  
 15    A. Yes.  
 16    Q. Where did you put the truck?  
 17    A. There's a spot for trucks that  
       they park -- allow you to park right in  
       front.  
 20    Q. Was anyone with you?  
 21    A. No.  
 22    Q. As a general matter when you do  
       your route, do you do it alone?  
 24    A. Yes.  
 25    Q. Did you ever have someone with you

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[7] (Pages 22 to 25)

1                   GALLAGHER  
 2 when you serviced the machines at Shawangunk?  
 3     A. As far as who? As far as an  
 4 officer?  
 5     Q. Someone else from Rockland.  
 6     A. No, no.  
 7     Q. Did you ever bring someone from --  
 8     A. No, no. Unless you were training,  
 9 no.  
 10    Q. Were you ever training at  
 11 Shawangunk?  
 12    A. Yes, I did -- when I first started  
 13 I was trained how to do the machines, you  
 14 know, she had to show me what to do and how  
 15 to do it.  
 16    Q. Who trained you?  
 17    MR. SUSSMAN: This is  
 18 Shawangunk or in general?  
 19    MR. SCHULZE: Shawangunk.  
 20    MR. SUSSMAN: Who trained you  
 21 at Shawangunk?  
 22    A. I want to say our route  
 23 supervisor, Darren Maguire.  
 24    Q. What period did you train at  
 25 Shawangunk?

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1                   GALLAGHER  
 2 never had any dealings. I dealt with her --  
 3 with the next person.  
 4     Q. The first time you ever saw  
 5 Roxanne Creen was on May 9, 2007?  
 6     A. Yes.  
 7     Q. After you parked your truck in the  
 8 spot for trucks outside the facility on May  
 9 9, 2007, what did you do?  
 10    A. I got out of my truck, got my  
 11 tickets, my money bags. I grabbed my cart  
 12 with the cold food or whatever I needed for  
 13 that day and I went in.  
 14    Q. What did you need for that day?  
 15    A. I could have brought in chips and  
 16 some cold food and some soda, stuff like  
 17 that.  
 18    Q. How big is your cart?  
 19    A. It's six-foot cart, five-foot  
 20 cart.  
 21    Q. Six feet in length?  
 22    A. Yes, it's a fold-down cart.  
 23    Q. What does that mean?  
 24    A. It's -- it's a vendors cart. What  
 25 it is you can have it upright, stand it

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1                   GALLAGHER  
 2     A. It's usually like a week training.  
 3     Q. So when was that?  
 4     A. In the beginning when I was first  
 5 hired in June.  
 6     Q. 2006?  
 7     A. Yes.  
 8     Q. Did you meet Roxanne Creen in June  
 9 of 2006?  
 10    A. No.  
 11    Q. When did you first meet Roxanne?  
 12    A. Prior to that, never.  
 13    Q. When did you first meet her?  
 14    A. Prior?  
 15    Q. Ever.  
 16    A. Never. I have never met her.  
 17    Q. You have never met her?  
 18    A. No. I used to deal with the  
 19 Margie lady. I mean she was. ....  
 20    Q. Just so I'm clear, because I don't  
 21 think you understand the question, are you  
 22 saying the first time you ever saw Roxanne is  
 23 in this room today?  
 24    A. Yes. Besides when it happened  
 25 that day, the incident, I never met her. We

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1                   GALLAGHER  
 2 straight up or you can fold it down where you  
 3 could put supplies on it. It's kind of like  
 4 a U-boat, you know.  
 5     Q. Did you fold it down on that day?  
 6     A. Yes.  
 7     Q. It had supplies on it?  
 8     A. Yes.  
 9     Q. What tickets did you have with  
 10 you?  
 11    A. The ones for the visit room, the  
 12 ones for the employees. That was it.  
 13    Q. This was a Wednesday?  
 14    A. Yes.  
 15    Q. Had you been at the facility that  
 16 Monday?  
 17    A. Yes.  
 18    Q. Did you have any problems that  
 19 Monday?  
 20    A. Not a problem.  
 21    Q. When you walked in the facility on  
 22 Wednesday, did you sign in?  
 23    A. Yes.  
 24    Q. Who was the officer?  
 25    A. I want to say it was McCarthy.

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[8] (Pages 26 to 29)

<p>1                   <b>GALLAGHER</b></p> <p>2   Q. Why do you want to say that?</p> <p>3   A. Because I remember talking to her.</p> <p>4   Q. What did you say to her?</p> <p>5   A. Just how's the weather, you know,</p> <p>6 basic conversation.</p> <p>7   Q. Did you know Ms. McCarthy?</p> <p>8   A. Prior to that, no.</p> <p>9   Q. Was that the first time you had</p> <p>10 ever seen her?</p> <p>11   A. No. I used to be in there few</p> <p>12 times a week so you get to know the faces of</p> <p>13 the officers and you say how are you doing,</p> <p>14 you know.</p> <p>15   Q. So you knew Ms. McCarthy in that</p> <p>16 manner before this date?</p> <p>17   A. Yes, pretty much.</p> <p>18   Q. You recognized her?</p> <p>19   A. Yes.</p> <p>20   Q. How long did it take you to sign</p> <p>21 in?</p> <p>22   A. Seconds.</p> <p>23   Q. Were any other officers present?</p> <p>24   A. There might have because there was</p> <p>25 another little -- they have the officers</p>	<p>1                   <b>GALLAGHER</b></p> <p>2   A. No.</p> <p>3   Q. Had you met Margie before?</p> <p>4   A. Yes, I used to deal with her</p> <p>5 regularly.</p> <p>6   Q. She was your contact person at</p> <p>7 Shawangunk?</p> <p>8   A. I would give refunds. People</p> <p>9 would lose the money from the machines and I</p> <p>10 would give them refunds. Besides that,</p> <p>11 that's all the dealings I had with her.</p> <p>12   Q. When you met in the hallway, what</p> <p>13 did they say to you and what did you say to</p> <p>14 them?</p> <p>15   A. They were interested in -- they</p> <p>16 said your boss owes us commission. We want</p> <p>17 our commission. I said that's between you</p> <p>18 and him. It has nothing to do with me. I'm</p> <p>19 not here for that. I can't give you any</p> <p>20 money. It has nothing to do with me.</p> <p>21   Q. Okay. Who said your boss owes us</p> <p>22 commission?</p> <p>23   A. Ms. Creed.</p> <p>24   Q. Creen?</p> <p>25   A. Creen.</p>
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<p>1                   <b>GALLAGHER</b></p> <p>2 lounge so I didn't see anyone around.</p> <p>3   Q. Was anyone going in and out of the</p> <p>4 facility at that time?</p> <p>5   A. No.</p> <p>6   Q. After you signed in, what did you</p> <p>7 do?</p> <p>8   A. I walked down to the -- down the</p> <p>9 hallway. That's where Mrs. Creen and</p> <p>10 Ms. Margie met me. They were interested in</p> <p>11 my money.</p> <p>12   Q. This hallway is past the area</p> <p>13 where you signed in?</p> <p>14   A. Yes.</p> <p>15   Q. But you had not gone through the</p> <p>16 security; correct?</p> <p>17   A. Yes.</p> <p>18   Q. Correct, you had not yet gone</p> <p>19 through the security gate?</p> <p>20   A. Yes.</p> <p>21   Q. You met Mrs. Creen and who in this</p> <p>22 hallway?</p> <p>23   A. Margie.</p> <p>24   Q. Margie. Do you know Margie's last</p> <p>25 name?</p>	<p>1                   <b>GALLAGHER</b></p> <p>2   Q. Did anyone introduce Ms. Creen to</p> <p>3 you before she said that?</p> <p>4   A. No, she said her name. She said</p> <p>5 her name and where she was from, what</p> <p>6 position she held.</p> <p>7   Q. Okay. What was that?</p> <p>8   A. She is the -- she was from the</p> <p>9 accounting department or something like that.</p> <p>10   Q. She said she was from the</p> <p>11 accounting department and she gave you her</p> <p>12 name?</p> <p>13   A. Yes.</p> <p>14   Q. What did she say after that?</p> <p>15   A. She tried several times to get a</p> <p>16 hold of my boss because he owed them</p> <p>17 commission.</p> <p>18         MR. SUSSMAN: Let him finish.</p> <p>19         What did she say?</p> <p>20         MR. SCHULZE: I thought he was</p> <p>21 done.</p> <p>22   Q. Go ahead.</p> <p>23   A. She wanted commission, et cetera.</p> <p>24 She wanted the commission and she couldn't</p> <p>25 get a hold of him and she was going to teach</p>
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[9] (Pages 30 to 33)

<p>1                   <b>GALLAGHER</b></p> <p>2 us a lesson.</p> <p>3     <b>Q.</b> Go ahead. Let me know when you're</p> <p>4 done.</p> <p>5     <b>A.</b> I'm finished. Go ahead.</p> <p>6     <b>Q.</b> Did she use the words I want to</p> <p>7 teach you a lesson?</p> <p>8     <b>A.</b> Yes.</p> <p>9     <b>Q.</b> Was she referring to you?</p> <p>10    <b>A.</b> No, my boss.</p> <p>11    <b>Q.</b> Your boss is Mr. Freed?</p> <p>12    <b>A.</b> Yes.</p> <p>13    <b>Q.</b> Margie was present at this time?</p> <p>14    <b>A.</b> Yes.</p> <p>15    <b>Q.</b> Was the door between the hallway</p> <p>16 you were in and the desk where you signed in</p> <p>17 open or closed?</p> <p>18    <b>A.</b> By the -- by that time when that</p> <p>19 was happening we were in the visit room.</p> <p>20    <b>Q.</b> We are just talking about the</p> <p>21 hallway now.</p> <p>22    <b>A.</b> Yes, it was open.</p> <p>23    <b>Q.</b> In the hallway, what was the full</p> <p>24conversation you had?</p> <p>25    <b>A.</b> (No response).</p>	<p>1                   <b>GALLAGHER</b></p> <p>2     <b>A.</b> No. We were kind of talking and</p> <p>3 walking while this was going on.</p> <p>4     <b>Q.</b> Did Marjorie say anything in the</p> <p>5 hallway?</p> <p>6     <b>A.</b> Not that I recall.</p> <p>7     <b>Q.</b> In the hallway, did you ask to</p> <p>8 call Rockland?</p> <p>9     <b>A.</b> No. We were already in the visit</p> <p>10 room.</p> <p>11    <b>Q.</b> In the hallway?</p> <p>12    <b>A.</b> In the hallway, I had no idea this</p> <p>13 was going on. We were walking and talking.</p> <p>14    <b>Q.</b> In the hallway, did you ask anyone</p> <p>15 else to call Rockland Vending on your behalf?</p> <p>16    <b>A.</b> I told her to call them.</p> <p>17    <b>MR. SUSSMAN:</b> Just listen to</p> <p>18 the question. In the hallway. He's dividing</p> <p>19 up the incident between the hallway and the</p> <p>20 visiting room. He's asking you in the</p> <p>21 hallway, did you ask anyone to call Rockland</p> <p>22 Vending on your behalf. That's the question.</p> <p>23    <b>THE WITNESS:</b> No.</p> <p>24    <b>MR. SUSSMAN:</b> Just answer the</p> <p>25 question. Don't go further. He will get to</p>
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<p>1                   <b>GALLAGHER</b></p> <p>2     <b>Q.</b> Before you went anywhere else.</p> <p>3     <b>A.</b> That we owe her commission and she</p> <p>4 had been trying to contact my boss about the</p> <p>5 commission and that they wanted it.</p> <p>6     <b>Q.</b> Did you ask her why she was asking</p> <p>7 that to you?</p> <p>8     <b>A.</b> I told her it has nothing to do</p> <p>9 with me and you would have to settle it with</p> <p>10 him. She said that -- excuse me. She tried</p> <p>11 to get a hold of him several times. She</p> <p>12 could never get a hold of him.</p> <p>13    <b>Q.</b> Did anyone say that they were</p> <p>14 going to confiscate the money you took out of</p> <p>15 the machine?</p> <p>16    <b>MR. SUSSMAN:</b> In the hallway?</p> <p>17    <b>MR. SCHULTZE:</b> Yes.</p> <p>18    <b>MR. SUSSMAN:</b> In the hallway</p> <p>19 did anyone say that?</p> <p>20    <b>A.</b> That was in the visit room that</p> <p>21 they said that.</p> <p>22    <b>Q.</b> In the hallway?</p> <p>23    <b>A.</b> Not that I recall.</p> <p>24    <b>Q.</b> Did you ask in the hallway why she</p> <p>25 was telling you this about the commissions?</p>	<p>1                   <b>GALLAGHER</b></p> <p>2 the visiting room.</p> <p>3    <b>THE WITNESS:</b> All right.</p> <p>4     <b>Q.</b> Your testimony, just so I'm clear,</p> <p>5 is that while you were in the hallway no one</p> <p>6 said they were going to take the money that</p> <p>7 you took out of the vending machines; is that</p> <p>8 correct?</p> <p>9     <b>A.</b> No, they didn't say anything about</p> <p>10 that.</p> <p>11    <b>Q.</b> While in the hallway you didn't</p> <p>12 ask to call Rockland or didn't ask anyone</p> <p>13 else to call Rockland; is that correct?</p> <p>14    <b>A.</b> No.</p> <p>15    <b>MR. SUSSMAN:</b> He's asking a</p> <p>16 question confusing -- the record is going to</p> <p>17 be confused. In the hallway you didn't ask</p> <p>18 to have anyone call Rockland. Your answer to</p> <p>19 that is no, meaning no, you didn't ask,</p> <p>20 right?</p> <p>21    <b>THE WITNESS:</b> No, I didn't.</p> <p>22    <b>MR. SCHULZE:</b> Now I'm confused.</p> <p>23    <b>MR. SUSSMAN:</b> The answer to the</p> <p>24 question would be yes.</p> <p>25    <b>MR. SCHULZE:</b> I said correct.</p>
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[10] (Pages 34 to 37)

<p>1                   <b>GALLAGHER</b></p> <p>2            MR. SUSSMAN: The answer is</p> <p>3   yes, it's correct. His answer was no. So</p> <p>4   that's what is confusing. He's saying now --</p> <p>5            MR. SCHULZE: Let's go over it</p> <p>6   back again.</p> <p>7            MR. SUSSMAN: Go ahead. It's</p> <p>8   not your fault. Let him ask the question.</p> <p>9            <b>Q.</b> When you were in the hallway, did</p> <p>10   you ask to call Rockland?</p> <p>11    A. Not at that time, no.</p> <p>12    <b>Q.</b> Did you ask anyone else to call</p> <p>13   Rockland?</p> <p>14    A. Yes.</p> <p>15    <b>Q.</b> Who did you ask to call Rockland</p> <p>16   while you were in the hallway?</p> <p>17    A. Not in the hallway.</p> <p>18    <b>Q.</b> We are just talking about the</p> <p>19   hallway?</p> <p>20    A. No, no, no.</p> <p>21    <b>Q.</b> While you were in the hallway, did</p> <p>22   anyone tell you that they were going to</p> <p>23   confiscate money?</p> <p>24    A. No.</p> <p>25    <b>Q.</b> Where did you go from the hallway?</p>	<p>1                   <b>GALLAGHER</b></p> <p>2   security gate, you went to the visiting room?</p> <p>3    A. Yes.</p> <p>4    <b>Q.</b> Was anyone with you?</p> <p>5    A. Ms. Creed.</p> <p>6    <b>Q.</b> Was there an officer on duty at</p> <p>7   the first security point?</p> <p>8    A. Yes.</p> <p>9    <b>Q.</b> Who was that officer?</p> <p>10   A. I don't know. He's behind the</p> <p>11   glass, tinted glass.</p> <p>12   <b>Q.</b> Could you see him?</p> <p>13   A. Barely.</p> <p>14   <b>Q.</b> Did you recognize him?</p> <p>15   A. Yes.</p> <p>16   <b>Q.</b> Who was it?</p> <p>17   A. I didn't know his name. I know</p> <p>18   him by face.</p> <p>19   <b>Q.</b> He was someone you had seen before</p> <p>20   at the facility?</p> <p>21   A. Yes.</p> <p>22   <b>Q.</b> But you don't know who it was; is</p> <p>23   that fair?</p> <p>24   A. I didn't know his name, no.</p> <p>25   <b>Q.</b> Was there an officer on duty</p>
<p>[Page 38]</p>	<p>[Page 40]</p>

<p>1                   <b>GALLAGHER</b></p> <p>2   A. We walked into the visit room.</p> <p>3   <b>Q.</b> Did you have to go through a</p> <p>4   security area before you went into the</p> <p>5   visiting room?</p> <p>6    A. Yes.</p> <p>7    <b>Q.</b> What is the first security area</p> <p>8   you went through?</p> <p>9    A. There are two locked gates. Then</p> <p>10   you go through, then there's another locked</p> <p>11   gate. Then there's another locked gate to go</p> <p>12   into the visit room.</p> <p>13   <b>Q.</b> Prior to going through the first</p> <p>14   security gate, had anyone told you that they</p> <p>15   were going to confiscate money?</p> <p>16    A. No.</p> <p>17    <b>Q.</b> Prior to going through the first</p> <p>18   security gate, had you asked to call</p> <p>19   Rockland?</p> <p>20    A. No.</p> <p>21    <b>Q.</b> Prior to going through the first</p> <p>22   security gate, did you ask anyone else to</p> <p>23   call Rockland?</p> <p>24    A. No.</p> <p>25    <b>Q.</b> After you went through the</p>	<p>1                   <b>GALLAGHER</b></p> <p>2   outside the visiting room?</p> <p>3    A. There's a booth that's -- a locked</p> <p>4   booth, yes.</p> <p>5    <b>Q.</b> Who was the officer on duty there?</p> <p>6    A. I don't know.</p> <p>7    <b>Q.</b> Was it someone you recognized?</p> <p>8    A. You can't see. It's tinted.</p> <p>9    <b>Q.</b> Did you recognize the officer from</p> <p>10   prior visits to Shawangunk?</p> <p>11   <b>MR. SUSSMAN:</b> He just said he</p> <p>12   couldn't see, it was tinted.</p> <p>13   <b>MR. SCHULZE:</b> He said the same</p> <p>14   thing about the other place.</p> <p>15    A. In the first security booth</p> <p>16   there's a hole. You put your hand there so</p> <p>17   they can see your stamp. They say yah or</p> <p>18   nay. The second booth you don't see them</p> <p>19   because it's a locked booth with tinted</p> <p>20   windows and you got all their cameras and</p> <p>21   stuff.</p> <p>22   <b>Q.</b> You know there was an officer in</p> <p>23   that booth; correct?</p> <p>24    A. Yes.</p> <p>25    <b>Q.</b> Did you talk to that officer at</p>
<p>[Page 39]</p>	<p>[Page 41]</p>

[11] (Pages 38 to 41)

<p>1                   <b>GALLAGHER</b></p> <p>2 all?</p> <p>3   A. No.</p> <p>4   Q. Did that officer open up the door</p> <p>5 to the visiting room?</p> <p>6   A. Yes.</p> <p>7   Q. How did he do that?</p> <p>8   A. I guess electrically.</p> <p>9   Q. Did anyone tell the officer to do</p> <p>10 that?</p> <p>11   A. Well, normally if you're at the</p> <p>12 gate they open the gate.</p> <p>13   Q. Did someone say please open the</p> <p>14 gate or does it just open?</p> <p>15   A. It opens when they see you there,</p> <p>16 standing there.</p> <p>17   Q. When you went into the visiting</p> <p>18 room, was anyone else there?</p> <p>19   A. There was a CO in the far back.</p> <p>20   Q. Do you know who that was?</p> <p>21   A. No.</p> <p>22   Q. Were there any visitors or inmates</p> <p>23 in the room?</p> <p>24   A. No.</p> <p>25   Q. Did anyone walk into the visiting</p>	<p>1                   <b>GALLAGHER</b></p> <p>2 bags.</p> <p>3   Q. What did you understand that to</p> <p>4 mean?</p> <p>5   A. They were trying to take my money.</p> <p>6   Q. Is it your money?</p> <p>7   A. No, well, it's my -- I'm</p> <p>8 responsible for that money but it's</p> <p>9 Mr. Freed's money.</p> <p>10   Q. You're referring to the money</p> <p>11 that's collected out of the vending machines;</p> <p>12 is that correct?</p> <p>13   A. Yes.</p> <p>14   Q. Who said that?</p> <p>15   A. Mrs. Creen.</p> <p>16   Q. Did she say who the lawyer was?</p> <p>17   A. No.</p> <p>18   Q. What did you say in response to</p> <p>19 that?</p> <p>20   A. I said I'm not giving it up. I</p> <p>21 said does Mike know about this. That's when</p> <p>22 they said we will contact him. I said no, I</p> <p>23 want to know -- I want to hear from Mike that</p> <p>24 he knows about this, what is going on here.</p> <p>25 She said she will contact him.</p>
<p>[Page 42]</p>	<p>[Page 44]</p>

<p>1                   <b>GALLAGHER</b></p> <p>2 room with you?</p> <p>3   A. Yes, Mrs. Creen, the Margie lady</p> <p>4 and there was another lady that helped tally</p> <p>5 up the money.</p> <p>6   Q. Who was that?</p> <p>7   A. I don't know her name.</p> <p>8   Q. Is it someone you recognized?</p> <p>9   A. No.</p> <p>10   Q. Had you ever seen that person</p> <p>11 before?</p> <p>12   A. No.</p> <p>13   Q. Do you know whether they were</p> <p>14 employed by DOCS?</p> <p>15   A. Yes, they were there. You know,</p> <p>16 they were an assistant to somebody but I</p> <p>17 couldn't recall her name.</p> <p>18   Q. Did Ms. Creen, Margie and this</p> <p>19 other woman walk in with you when you first</p> <p>20 entered the visiting room?</p> <p>21   A. Yes.</p> <p>22   Q. What is the first thing that</p> <p>23 happened when you entered the visiting room?</p> <p>24   A. They said they were instructed by</p> <p>25 their lawyer they can confiscate my money</p>	<p>1                   <b>GALLAGHER</b></p> <p>2   Q. She meaning Roxanne?</p> <p>3   A. Yes.</p> <p>4   Q. What did you say to that?</p> <p>5   A. I said I'm not giving up anything</p> <p>6 until that happens. This went back and forth</p> <p>7 for a while because we normally don't give</p> <p>8 out cash. I have no -- none of that. I have</p> <p>9 nothing to do with that as far as commission</p> <p>10 wise.</p> <p>11   Q. How long did this go back and</p> <p>12 forth?</p> <p>13   A. It went back and forth throughout</p> <p>14 the whole time I was giving them the money so</p> <p>15 90 minutes.</p> <p>16   Q. Before you did anything regarding</p> <p>17 the machines, how long were you talking to</p> <p>18 Ms. Creen?</p> <p>19   MR. SUSSMAN: In the visiting</p> <p>20 room, is that the question?</p> <p>21   MR. SCHULTZE: That's where we</p> <p>22 are now.</p> <p>23   MR. SUSSMAN: This doesn't mean</p> <p>24 that's what the question is, counsel. Please</p> <p>25 be precise. You want precise answers, ask</p>
<p>[Page 43]</p>	<p>[Page 45]</p>

[12] (Pages 42 to 45)

1                   **GALLAGHER**  
 2 him precise questions. It's not whether I  
 3 object or not. I want the questions to be  
 4 precise so I know exactly what he's  
 5 answering.

6                   MR. SCHULZE: Then say  
 7 objection.

8                   MR. SUSSMAN: I'm not going to  
 9 say objection. I'm going to say ask it more  
 10 specifically so I understand.

11                  In the visiting room before you  
 12 dealt with the machines, how long were you  
 13 talking with Ms. Creen?

14                  MR. SCHULZE: This isn't your  
 15 deposition.

16                  MR. SUSSMAN: Is that your  
 17 question?

18                  MR. SCHULZE: Is that your  
 19 question? I will ask the question.

20                  MR. SUSSMAN: Go ahead.

21                  Q. You're in the visiting room now;  
 22 is that correct?

23                  A. Yes.

24                  Q. You're having a conversation with  
 25 Ms. Creen; is that correct?

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1                   **GALLAGHER**  
 2 Q. Why did you do that?  
 3 A. Because I felt I had to give them  
 4 the money or they were not going to let me  
 5 out.

6                   Q. What specifically led you to  
 7 believe that?

8                   A. Because they kept on insisting  
 9 they wanted their money and her going to  
 10 teach us a lesson and I felt that if I didn't  
 11 give it up, that I wasn't getting out that  
 12 door.

13                  Q. But you didn't ask to leave; is  
 14 that correct?

15                  A. No, I didn't ask to leave.

16                  Q. Did you take money out of all the  
 17 machines in the visiting room on this day?

18                  A. Yes.

19                  Q. Were you scheduled to take money  
 20 out of all the machines in the visiting room  
 21 on this day?

22                  A. Yes.

23                  Q. How long does it usually take to  
 24 get the money out of the machines in the  
 25 visiting room at Shawangunk?

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1                   **GALLAGHER**  
 2                  A. Yes.  
 3                  Q. How long did that conversation go  
 4 on before you touched the machines?  
 5                  A. A while. I wasn't just going to  
 6 hand out my money so it went back and forth  
 7 for a while.

8                  Q. How long?

9                  A. 20 minutes, half hour.

10                 Q. For 20 minutes or half an hour,  
 11 you're having a conversation with Ms. Creen  
 12 where she says she is going to confiscate the  
 13 money because her lawyer told her to and  
 14 you're saying you're not going to give it to  
 15 her; is that correct?

16                 A. Yes.

17                 Q. During this 20 to 30 minutes, did  
 18 you try to leave?

19                 A. I couldn't. The gate was locked.

20                 Q. Did you ever ask to leave?

21                 A. No, I didn't ask to leave.

22                 Q. There came a point when you  
 23 started to take money out of the machines; is  
 24 that correct?

25                 A. Yes.

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1                   **GALLAGHER**  
 2                  A. I'm usually in and out of there in  
 3 half an hour.  
 4                  Q. On this date once you started  
 5 getting the money out of the machine, how  
 6 long did it take?  
 7                  A. Throughout the whole thing,  
 8 probably took about 90 minutes.

9                  Q. Was anyone counting the money that  
 10 came out of the visiting machines on this  
 11 date?

12                 A. Yes.

13                 Q. Who was doing that?

14                 A. Ms. Margie and her assistant.

15                 Q. They were both counting?

16                 A. Yes.

17                 Q. Were you counting?

18                 A. Yes.

19                 Q. Did you all reach the same totals?

20                 A. Yes.

21                 Q. Is it usual practice to count the  
 22 money that's coming out of the machines as  
 23 you're taking it out?

24                 A. No.

25                 Q. Go ahead.

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[13] (Pages 46 to 49)

1                   **GALLAGHER**  
 2     A. I don't deal with the money.  
 3 That's what they usually do. They have an  
 4 office that deals with that. I put it in the  
 5 money bag and I'm done.  
 6     Q. Is it fair to say that counting  
 7 the money slowed the process down in taking  
 8 the money out of the machine?  
 9     A. Yes.  
 10    Q. After the money was counted, what  
 11 happened to it?  
 12    A. They put it in an envelope, they  
 13 gave me a receipt, and that was it. I went  
 14 onto the next machine.  
 15    Q. Who gave you the receipt?  
 16    A. Margie.  
 17    Q. Was Ms. Creen present while you  
 18 were taking the money out of the machine?  
 19    A. She was in and out of the room.  
 20    Q. When did she leave the room for  
 21 the first time?  
 22    A. After -- right after I said I was  
 23 not giving up the money and she said she was  
 24 going to go upstairs and call Mr. Freed.  
 25    Q. Did she come back into the room

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1                   **GALLAGHER**  
 2 but it was either busy or she couldn't get a  
 3 hold of anybody. We had a secretary that  
 4 takes care of it right there. So I told her  
 5 let me call them because I want him to know  
 6 what was going on.  
 7     Q. What specifically did she say to  
 8 you, do you remember the words?  
 9     A. That she tried contacting him.  
 10    Q. Him meaning?  
 11    A. Mr. Freed.  
 12    Q. And?  
 13    A. It was either busy or she couldn't  
 14 get a hold of anybody.  
 15    Q. She was contacting Mr. Freed at  
 16 your request?  
 17    A. Yes. I told her several times and  
 18 I also told Margie to call Mr. Freed because  
 19 I wanted him to know this -- what was going  
 20 on.  
 21    Q. Did you ask to call Mr. Freed  
 22 yourself?  
 23    A. I couldn't. There was no phones.  
 24    Q. Did you ask to call Mr. Freed?  
 25    A. No, I didn't call Mr. Freed.

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1                   **GALLAGHER**  
 2 before you started taking money out of the  
 3 machines?  
 4     A. She was in and out of the room,  
 5 yes.  
 6     Q. At what point did she come back  
 7 into the room for the first time?  
 8     A. Right after the second machine.  
 9     Q. So by the time she got back into  
 10 the room you had already taken money out of  
 11 the first machine; is that correct?  
 12    A. Yes, yes.  
 13    Q. Had you given that money to one of  
 14 the other DOCS representatives?  
 15    A. Yes.  
 16    Q. Had you gotten a receipt for that  
 17 machine?  
 18    A. Yes.  
 19    Q. This all happened before Ms. Creen  
 20 returned to the room; is that correct?  
 21    A. Give or take, yes.  
 22    Q. When Ms. Creen came back into the  
 23 room, did she say whether she had contacted  
 24 anybody?  
 25    A. She said she tried to contact him

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1                   **GALLAGHER**  
 2     Q. Did you ask to be able to?  
 3     A. No.  
 4     Q. After she said she wasn't able to  
 5 reach Mr. Freed after this first return to  
 6 the visiting room, what did you say?  
 7     A. I said I wanted her to re-call  
 8 Mr. Freed.  
 9     Q. To try again?  
 10    A. Yes.  
 11    Q. What did she say?  
 12    A. She said she would.  
 13    Q. Did she leave the room?  
 14    A. Yes.  
 15    Q. How long did that conversation  
 16 take?  
 17    A. Between me and her?  
 18    Q. Yes.  
 19    A. Couple of seconds.  
 20    Q. Did she say whether she left a  
 21 message?  
 22    A. I don't recall.  
 23    Q. After she left the room on this  
 24 occasion, how long was she gone?  
 25    A. She was gone a while because I was

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[14] (Pages 50 to 53)

1                   **GALLAGHER**  
 2 pretty much done with the visiting room. I  
 3 told Margie to call Mr. Freed. I wanted to  
 4 know what was going on, I wanted him to know  
 5 what is going on.  
 6     **Q.** Did Ms. Creen return to the  
 7 visiting room before you had finished?  
 8     **A.** I don't recall.  
 9     **Q.** When is the next time you saw  
 10 Ms. Creen that day?  
 11    **A.** I think exiting the visiting room.  
 12    **Q.** Did you have other machines to  
 13 service at that point?  
 14    **A.** Yes, yes.  
 15    **Q.** What location in the facility did  
 16 you see her?  
 17    **A.** Coming out of the visit room, the  
 18 booth going into the employee lounge.  
 19    **Q.** Outside the security door of the  
 20 visiting room?  
 21    **A.** Yes.  
 22    **Q.** At this point, what did she say to  
 23 you and what did you say do her?  
 24    **A.** I said did you contact Mr. Freed.  
 25 She said she couldn't get a hold of him.

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1                   **GALLAGHER**  
 2     **Q.** Did she tell you that?  
 3     **A.** She said something like that, yes.  
 4     **Q.** Did she tell you whether she was  
 5 going to try to get in touch with Mr. Freed?  
 6     **A.** Yes, she was going to try to get a  
 7 hold of him. I also told Margie to get a  
 8 hold of Mr. Freed. She said she would.  
 9     **Q.** Was anyone else present in the  
 10 visiting room other than you and Margie?  
 11    **MR. SUSSMAN:** Visiting room or  
 12 the --  
 13    **MR. SCHULZE:** You're right.  
 14    **Q.** Was anyone else present in the  
 15 employee lounge besides you and Margie?  
 16    **A.** There was -- her assistant was  
 17 there and was counting up the money, too.  
 18    **Q.** This was the woman that was also  
 19 in the visiting room?  
 20    **A.** Yes.  
 21    **Q.** Did you take money out of all the  
 22 machines in the employees lounge?  
 23    **MR. SUSSMAN:** Asked and  
 24 answered. He said he took money out of two  
 25 of the five machines.

[Page 56]

1                   **GALLAGHER**  
 2     **Q.** Did she say whether she contacted  
 3 anyone else at Rockland?  
 4     **A.** No.  
 5     **Q.** When she said that, what did you  
 6 say to her?  
 7     **A.** That she really needs to call him.  
 8 I want him to know what is going on here.  
 9     **Q.** What happened next?  
 10    **A.** I went into the employees lounge.  
 11 Of the five machines that were there, I  
 12 collected two more. Margie was there. She  
 13 took down -- she counted the money, gave me  
 14 receipts for both machines. She asked when  
 15 was I going to be back for the rest of her  
 16 money, for the rest of the money. I said  
 17 they knew I was supposed to come back on  
 18 Friday and that was it.  
 19    **Q.** Was Ms. Creen in the room when you  
 20 went into the employee lounge?  
 21    **A.** No, she was upstairs.  
 22    **Q.** How do you know that?  
 23    **A.** Because she had something going on  
 24 in her office. She had a meeting or  
 25 something.

[Page 55]

1                   **GALLAGHER**  
 2     **Q.** You can answer unless he instructs  
 3 you not to answer.  
 4     **MR. SUSSMAN:** You can answer.  
 5     **A.** Did I take money out of all of the  
 6 machines, no.  
 7     **Q.** Did anyone ask you to take money  
 8 out of all of the machines?  
 9     **A.** Yes.  
 10    **Q.** Who asked you that?  
 11    **A.** Margie.  
 12    **Q.** What did she say?  
 13    **A.** She was asking when do I service  
 14 the other machines, when do I count the other  
 15 machines. She knew I came back on Friday and  
 16 so she said I will see you for the rest of  
 17 the money on Friday.  
 18    **Q.** Would you have been able to take  
 19 money out of the other machines in the  
 20 employee lounge on this date?  
 21    **A.** No, because I didn't service those  
 22 machines.  
 23    **Q.** Would it have been possible to get  
 24 the money out of the machines?  
 25    **A.** It would have been possible, yes,

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[15] (Pages 54 to 57)

1                   **GALLAGHER**  
 2 but I'm not doing it. I wasn't supposed to  
 3 do it. I wasn't supposed to hand over any  
 4 money. I wasn't doing it.

5           **Q.** So we clear, it would have been  
 6 possible for you to take money out of the  
 7 machine and no one forced you to do it?

8           **A.** The temptation was there. They  
 9 wanted their money, but I wasn't giving it  
 10 up.

11          **Q.** Again --

12          MR. SUSSMAN: Listen to the  
 13 question please.

14          **Q.** It was possible for you to take  
 15 money out of those machines; is that correct?

16          **A.** Yes.

17          **Q.** But no one at DOCS forced you to  
 18 take money out of those machines on that day;  
 19 correct?

20          **A.** No.

21          **Q.** After you finished with the  
 22 machine -- was it two machines in the  
 23 employee lounge?

24          **A.** Yes.

25          **Q.** You left the facility?

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1                   **GALLAGHER**  
 2          **A.** I drove down to 211. I got a hold  
 3 of my boss. In the Shawangunk area, there's  
 4 no cell phone reception. I called my boss --

5          **Q.** Go ahead. I thought you were  
 6 done. Go ahead.

7          **A.** Told him what was going on. I  
 8 talked to his wife. Told his wife -- she  
 9 told me to hold on, she will call me back.  
 10 She in turn called Mr. Freed, which they had  
 11 no idea what was going on because none of  
 12 them called. And he in turn told me to go to  
 13 the State troopers barracks on 299. I turned  
 14 around I went to the State trooper barracks  
 15 to file a report.

16          **Q.** Let's break it down. After you  
 17 left the facility, you got in your truck and  
 18 you drove to find cell phone service; is that  
 19 correct?

20          **A.** Yes.

21          **Q.** Did you pull over when you got a  
 22 signal?

23          **A.** Yes.

24          **Q.** Who did you call?

25          **A.** I called my job.

[Page 60]

1                   **GALLAGHER**  
 2          **A.** Yes.  
 3          **Q.** Did anyone try to stop you?  
 4          **A.** No.  
 5          **Q.** Prior to leaving the facility on  
 6 that date, you never asked to be able to  
 7 leave; is that correct?

8          **A.** No.

9          **Q.** That's correct, you never asked;  
 10 right?

11          **A.** I left and called my boss.

12          **Q.** But you never asked anyone --

13          **A.** I never asked anybody.

14          **Q.** -- to be able to leave the  
 15 facility; is that correct?

16          **A.** No, I hadn't asked anybody.

17          MR. SCHULZE: Let's take two  
 18 minutes before I move on from this area. Is  
 19 that okay?

20          MR. SUSSMAN: Sure.

21          (Whereupon, a recess was  
 22 taken.)

23          **Q.** After you left the facility,  
 24 Shawangunk Correctional Facility on May 9th,  
 25 what's the first thing you did?

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1                   **GALLAGHER**  
 2          **Q.** You called Rockland Vending?  
 3          **A.** I called Rockland Vending.  
 4          **Q.** Who answered the phone?  
 5          **A.** The secretary, Diane Roper.  
 6          **Q.** Did you tell her what was going  
 7 on?

8          **A.** I asked to speak to Cheryl or  
 9 Mike, if they were in the office. She in  
 10 turn got Cheryl.

11          MR. SUSSMAN: Just answer the  
 12 specific question. He will ask you specific  
 13 questions. You let him ask the question and  
 14 you answer that question. The question was  
 15 did you tell Diane what was going on.

16          **A.** Yes.

17          **Q.** What did you say to Diane?

18          **A.** That Shawangunk, they wanted a  
 19 commission. They took the money out of the  
 20 machines, they were instructed by their  
 21 lawyer that they could take the money out of  
 22 the machines. I had to give them their money  
 23 because I was locked into the visiting room.

24          **Q.** You told Diane this?

25          **A.** No, she got Cheryl. I told Diane

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[16] (Pages 58 to 61)

1                   GALLAGHER  
 2 I had problems at Shawangunk.  
 3   Q. You wanted to speak to Cheryl?  
 4   A. Yes.  
 5   Q. She went and got Cheryl?  
 6   A. Yes.  
 7   Q. Cheryl got on the phone then; is  
 8 that correct?  
 9   A. Yes.  
 10   Q. Then you said the story you just  
 11 gave to Cheryl; is that correct?  
 12   A. Yes.  
 13   Q. What did she say to you?  
 14   A. She told me to hold on, she will  
 15 call me back. She was going to call Mike  
 16 because Mike was out of the office.  
 17   Q. Mike meaning Mike Freed?  
 18   A. Yes.  
 19   Q. What is Cheryl's position with  
 20 Rockland?  
 21   A. She is I guess the assistant. She  
 22 is the boss' wife, you know, co-owner.  
 23   Q. After she told you she was going  
 24 to get a hold of Mike, did she hang up?  
 25   A. Yes.

[Page 62]

1                   GALLAGHER  
 2   Q. Did he say what you were supposed  
 3 to do when you went to the State trooper  
 4 barracks?  
 5   A. File a report.  
 6   Q. File a report about what happened  
 7 at Shawangunk?  
 8   A. Yes.  
 9   Q. How far away from the barracks  
 10 were you at this point?  
 11   A. I was in Montgomery. 45 minutes.  
 12   Q. Do you know where Mr. Freed was  
 13 when he called you?  
 14   A. No. I -- no.  
 15   Q. Do you know whether he was at  
 16 Rockland's offices or not?  
 17   A. I have no idea.  
 18   Q. He didn't say where he was; is  
 19 that correct?  
 20   A. I think he was on a call, a  
 21 business call somewhere. I don't know.  
 22   Q. But he didn't say where his  
 23 physical location was; is that correct?  
 24   A. No.  
 25   Q. Between the time you had this

[Page 64]

1                   GALLAGHER  
 2   Q. What did you do after she hung up?  
 3   A. I waited there on the spot. I was  
 4 pulled over.  
 5   Q. Did your phone ring again?  
 6   A. Yes.  
 7   Q. How long was it between --  
 8   A. A few seconds.  
 9   Q. The phone rang a few seconds after  
 10 you hung up?  
 11   A. Yes.  
 12   Q. Who was it?  
 13   A. It was Mike.  
 14   Q. What did Mike say?  
 15   A. That I had to go to the State  
 16 trooper barracks.  
 17   Q. Did Mike say anything to you that  
 18 indicated that he knew what had happened at  
 19 Shawangunk before he said that?  
 20   A. No.  
 21   Q. Was that all he said?  
 22   A. I told him what happened. He  
 23 asked what happened. So I explained to him  
 24 the details of it. He said you have to go to  
 25 the State trooper barracks in New Paltz.

[Page 63]

1                   GALLAGHER  
 2 conversation with Mr. Freed and the time you  
 3 reached the police barracks, did you have any  
 4 conversations with anyone else?  
 5   A. No, I was in the truck by myself.  
 6   Q. You didn't call anyone; correct?  
 7   A. No.  
 8   Q. No one called you during this  
 9 time; correct?  
 10   A. No.  
 11   Q. So the record is clear, did you  
 12 receive a call from the time you hung up with  
 13 Mr. Freed and the time you reached the police  
 14 barracks, yes or no?  
 15   A. Yes.  
 16   Q. Who called you during that time?  
 17   A. Eventually when I hit the State  
 18 trooper barracks, I parked the truck --  
 19   MR. SUSSMAN: Listen to what  
 20 he's asking you. He's not asking you that.  
 21   Q. Before you reached the police  
 22 barracks --  
 23   A. No.  
 24   MR. SUSSMAN: Relax. Let him  
 25 finish asking the question. Go ahead.

[Page 65]

[17] (Pages 62 to 65)

1 GALLAGHER  
 2 Q. Just so it's clear, no one is  
 3 laughing at you or laughing at the  
 4 artificiality of making a record of this.  
 5 Between the time you hung up with  
 6 Mr. Freed and the time you reached the police  
 7 barracks, did anyone call you?  
 8 A. No.  
 9 Q. After you reached the police  
 10 barracks, what did you do?  
 11 A. I went to talk to the officer but  
 12 he was on lunch so I had to wait.  
 13 Q. What officer?  
 14 A. The head -- he was like a  
 15 sergeant. I don't know his name personally  
 16 but it was the officer on duty.  
 17 Q. Did anyone tell you this  
 18 particular person was the one you had to make  
 19 your report to?  
 20 A. Yes.  
 21 Q. Who said that?  
 22 A. Mr. Freed.  
 23 Q. Did Mr. Freed give you the name of  
 24 the officer you were to make your report to?  
 25 A. Yes.

[Page 66]

1 GALLAGHER  
 2 Q. During this 20 minutes, did you  
 3 speak to anyone else?  
 4 A. Yes.  
 5 Q. Who?  
 6 A. Hold on a minute. From the  
 7 department or from my job?  
 8 MR. SUSSMAN: Anyone.  
 9 Q. Anyone.  
 10 A. Yes. My route supervisor called.  
 11 He said he was going to meet me there.  
 12 Q. Who is your route supervisor?  
 13 A. Steve Brier.  
 14 Q. Meet you there, meaning the police  
 15 barracks?  
 16 A. Yes.  
 17 Q. Did Steve Brier arrive there  
 18 before you spoke to the person you needed to  
 19 speak to?  
 20 A. Yes.  
 21 Q. When he arrived there, what did  
 22 you say to Steve and what did he say to you?  
 23 A. I told him what happened. He told  
 24 me that Mike sent him up there to be there  
 25 with me, to tell him the story.

[Page 68]

1 GALLAGHER  
 2 Q. You don't remember what that name  
 3 was?  
 4 A. No.  
 5 Q. Did you write it down?  
 6 A. No. At first he said the head,  
 7 then he said it might have been a sergeant.  
 8 Q. Did Mr. Freed state whether he had  
 9 talked to this person or not?  
 10 A. Yes, he did.  
 11 Q. What did he say?  
 12 A. He said he called ahead and he  
 13 talked to the head guy that was there. He  
 14 was waiting for me to get there.  
 15 Q. Did Mr. Freed tell you what he had  
 16 said to this person?  
 17 A. Not that I recall. I don't know.  
 18 Q. When you got to the police  
 19 barracks, the person you were supposed to  
 20 talk to was there but he was busy with  
 21 something?  
 22 A. Yes.  
 23 Q. How long did you wait to talk to  
 24 him?  
 25 A. 20 minutes.

[Page 67]

1 GALLAGHER  
 2 Q. Did you tell Steve Brier before  
 3 you spoke to the police officer?  
 4 A. Yes.  
 5 Q. What did he say when you told him?  
 6 A. He was outraged.  
 7 Q. What did he say to lead you to  
 8 that conclusion?  
 9 A. Just his facial expression.  
 10 Q. What were his --  
 11 A. He was upset and he was shocked.  
 12 Q. Can you describe what it was about  
 13 his facial expression that led you to that  
 14 conclusion?  
 15 A. His mouth dropped. He was like  
 16 ah. He was shocked that it happened like  
 17 that.  
 18 Q. What was he shocked at  
 19 specifically?  
 20 A. Shocked I was legally robbed in a  
 21 prison.  
 22 Q. Did you speak to anybody else  
 23 before you spoke to a police officer?  
 24 A. No.  
 25 Q. When you spoke to the police

[Page 69]

[18] (Pages 66 to 69)

<p>1                   <b>GALLAGHER</b>  2 officer, was Steve Brier present?  3       A. Yes.  4       Q. Anybody else?  5       A. No.  6       Q. You don't remember the officer's  7 name; is that correct?  8       A. No.  9       Q. What did the officer say to you  10 and what did you say to him?  11      A. I told him what happened.  12      Q. Specifically what did you say?  13      A. Specifically I told him I went to  14 Shawangunk and that they -- the lawyer  15 allowed them to confiscate my money bags. I  16 thought it was insane that they did that. He  17 told me it was a civil matter, there's  18 nothing he could do but he would go out and  19 check it out.  20      Q. Anything else?  21      A. He filled out a report. Then  22 called around to Shawangunk. I guess he got  23 one of those guys on the phone. That's  24 pretty much it.  25      Q. This was all while you were </p>	<p>1                   <b>GALLAGHER</b>  2 report at that time?  3       A. No.  4       Q. Did Steve Brier get a copy of the  5 report?  6       A. He might have.  7       Q. Do you know whether he did or not?  8       A. I can't say. I think he did.  9       Q. Did Steve say anything during the  10 meeting with the officer?  11      A. He was wondering how they could do  12 this.  13      Q. What did you say in that regard?  14      A. He was wondering how they could  15 actually take the money out of the machine,  16 confiscate the money.  17      Q. What crime did you think you were  18 reporting?  19      A. Robbery, theft and they were  20 holding me in there, so any one of those  21 three.  22      Q. After you left the police station,  23 did Steve Brier go with you?  24      A. He followed me in his car.  25      Q. Did you have any other stops to </p>
<p>[Page 70]</p>	<p>[Page 72]</p>

<p>1                   <b>GALLAGHER</b>  2 present?  3       A. He didn't do the phone call in  4 front of me, no.  5       Q. How long were you there with the  6 officer?  7       A. Hour.  8       Q. In the course of this hour, what  9 did the officer do?  10      A. He immediately said he would check  11 into it, go to Shawangunk and find out what  12 is going on because he wanted to get their  13 side of the story.  14      Q. He told you he would do that; is  15 that correct?  16      A. Yes.  17      Q. Did he write out a report while  18 you were present?  19      A. Yes.  20      Q. Did he show you the report?  21      A. I think he did, yes, but I can't  22 remember.  23      Q. Do you have a copy of that report?  24      A. No.  25      Q. Were you given a copy of that </p>	<p>1                   <b>GALLAGHER</b>  2 make that day?  3       A. I did but I didn't do them.  4       Q. Do you know whether those stops  5 got serviced by Rockland that day?  6       A. They might have.  7       MR. SUSSMAN: Do not guess. If  8 you know, you can say. If you don't know,  9 you can say I don't know.  10      A. I don't know.  11      Q. But you didn't do them; is that  12 correct?  13      A. No.  14      Q. When you left the police station,  15 where did you go?  16      A. Back to Rockland Vending.  17      Q. Did anyone give you instructions  18 that that was what you are supposed to do?  19      A. Go back to my job.  20      Q. Go back to Rockland Vending other  21 than other routes --  22      A. It was late so I went back to my  23 job.  24      Q. Steve Brier had followed you in  25 the car; is that correct? </p>
<p>[Page 71]</p>	<p>[Page 73]</p>

[19] (Pages 70 to 73)

1                   **GALLAGHER**

2     A. Yes.

3     Q. Did anyone talk to you while you  
4     were going from the police station to your  
5     job?

6     A. No.

7     Q. When you say you were going to  
8     your job, where is it?

9     A. It's in Chester.

10    Q. These are Rockland's offices?

11    A. Yes.

12    Q. When you got there, what did you  
13    do?

14    A. I dropped off the rest of my money  
15    bags and closed my truck and left.

16    Q. Did you see anybody from Rockland  
17    when you got there?

18    A. Yes.

19    Q. Who?

20    A. Mike was there, excuse me, Cheryl  
21    was there and they wanted to know what  
22    happened in detail.

23    Q. Was Steve there?

24    A. Yes.

25    Q. Anybody else?

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1                   **GALLAGHER**

2     nothing ever happened like this. When I went  
3     in there on Wednesday, that they did this to  
4     me. That I was shocked this happened and I  
5     didn't want to go back. I asked him if I was  
6     going to have to go back. He was like no.

7     Q. Who said you didn't have to go  
8     back?

9     A. Mike.

10    Q. Did anyone mention Roxanne Creen's  
11    name?

12    A. I don't recall.

13    Q. When you made your police report,  
14    did you use Roxanne Creen's name?

15    A. Yes.

16    Q. What specifically did you say  
17    about her?

18    A. I told the officer she was the  
19    lady that -- her -- Margie and -- they wanted  
20    their money and that we owe them commission  
21    and they felt -- they were instructed by  
22    their lawyer in Albany that they could do  
23    this.

24    Q. Anything else?

25    A. That -- how it was that I was -- I

[Page 76]

1                   **GALLAGHER**

2     A. Yes.

3     Q. Who?

4     A. The secretary.

5     Q. Anyone else?

6     A. No.

7     Q. What time did you arrive?

8     A. Five o'clock.

9     Q. You were saying you had a  
10    conversation with them. What did you say to  
11    them and what did they say to you?

12    A. I told them what happened. I was  
13    shaken up about it. They were amazed how  
14    this could happen in a State-owned facility.

15    Q. Can you be more specific about who  
16    said what?

17    A. I was talking to all three of  
18    them. I told them how this -- how it  
19    happened and they were amazed how they can  
20    legally rob me and get away with it.

21    Q. But again, can you give me any  
22    specifics that were said during that  
23    conversation?

24    A. How when I went in I was surprised  
25    this happened. When I went in on Monday,

[Page 75]

1                   **GALLAGHER**

2     was shaken up from being locked up inside.

3     Q. Specifically did you say anything  
4     else about Roxanne Creen?

5     A. I was amazed she could do this.

6     Q. Anything else?

7     A. How her lawyer could say they can  
8     write up a slip and I was shocked that he  
9     could do this and get away with it. I asked  
10    the officer, I was like if you can, you know,  
11    if you can actually say that they can rob me,  
12    what's the difference between me being  
13    instructed by my lawyer and rob someone else  
14    and get away with it.

15    Q. Anything else about Roxanne Creen?

16    A. No.

17    Q. How long did the conversation with  
18    Mike, Cheryl and Steve last when you returned  
19    to Rockland on the 9th?

20    A. It wasn't that long, about half an  
21    hour.

22    Q. Did they tell you to do anything  
23    at that point?

24    A. As far as what?

25    Q. Anything.

[Page 77]

[20] (Pages 74 to 77)

<p>1                   <b>GALLAGHER</b></p> <p>2       A. I just wanted to go home. I had 3 enough of that day. I just wanted to go 4 home.</p> <p>5       Q. Did they say you can go home?</p> <p>6       A. Yeah.</p> <p>7       Q. And you went home?</p> <p>8       A. I went home, yes.</p> <p>9       Q. Did you go back to work the next 10 day?</p> <p>11      A. Yes.</p> <p>12      Q. When you got back to work the next 13 day, did you talk about what had happened at 14 Shawangunk?</p> <p>15      MR. SUSSMAN: Just note my 16 objection. I think we are here for a 17 deposition regarding a qualified immunity 18 defense. I think we are starting to get far 19 afield here.</p> <p>20      MR. SCHULZE: I'm going to ask 21 what he knows about the complaint.</p> <p>22      MR. SUSSMAN: He's testified to 23 that. Go right ahead. I'm making my 24 objections noted.</p> <p>25      Q. Do you remember the question? [Page 78]</p>	<p>1                   <b>GALLAGHER</b></p> <p>2       Q. Do you know whether he assigned 3 anyone else to go to Shawangunk?</p> <p>4       A. They weren't sending anybody.</p> <p>5       Q. Did he tell you that?</p> <p>6       A. Yes.</p> <p>7       Q. After you left the police station, 8 do you know whether Mr. Freed had any 9 conversations with the police about the 10 incident at Shawangunk?</p> <p>11      A. I don't know.</p> <p>12      Q. Do you know whether anyone at 13 Rockland had conversations with the New York 14 State Attorney General's office about the 15 events of Shawangunk?</p> <p>16      A. I don't know.</p> <p>17      Q. Did you have any conversations 18 with the New York Attorney General's office 19 other than this deposition, of course?</p> <p>20      A. No.</p> <p>21      Q. Do you know whether anyone at 22 Rockland made any other complaints about what 23 happened at Shawangunk?</p> <p>24      A. No.</p> <p>25      MR. SUSSMAN: Off the record. [Page 80]</p>
<p>1                   <b>GALLAGHER</b></p> <p>2       A. Can you go ahead with the 3 question? Sorry.</p> <p>4       Q. When you went back to work the 5 next day, did you have any conversations 6 about what had happened at Shawangunk?</p> <p>7       A. I wanted to forget about it, you 8 know, because I was still shaken up from it. 9 Just being locked in the visiting room is a 10 scary situation. I don't know if you ever 11 been in prison but it's a scary situation.</p> <p>12      MR. SCHULZE: Off the record. 13      (Discussion off the record.)</p> <p>14      MR. SCHULZE: Back on the 15 record.</p> <p>16      Q. Were you instructed not to go back 17 to Shawangunk on Friday?</p> <p>18      A. Yes.</p> <p>19      Q. Who told you that?</p> <p>20      A. Mike.</p> <p>21      Q. When did he tell you that?</p> <p>22      A. Thursday night.</p> <p>23      Q. Do you know whether he assigned 24 another driver to go to Shawangunk?</p> <p>25      A. What was what?</p> <p>[Page 79]</p>	<p>1                   <b>GALLAGHER</b></p> <p>2       (Discussion off the record.)</p> <p>3       Q. Have you ever gone back to 4 Shawangunk Correctional Facility after May 9, 5 2007?</p> <p>6       A. Nope.</p> <p>7       Q. Have you had any contact with 8 anyone from Shawangunk Correctional Facility 9 after that day?</p> <p>10      A. No.</p> <p>11      Q. Do you know who Stewart Kidder is?</p> <p>12      A. No.</p> <p>13      Q. Stewart Kidder?</p> <p>14      A. No.</p> <p>15      Q. George Glasonos?</p> <p>16      A. No.</p> <p>17      Q. You don't know Glasonos?</p> <p>18      A. No.</p> <p>19      Q. Do you know who Marsha Riley is?</p> <p>20      A. Who?</p> <p>21      Q. Marsha Riley.</p> <p>22      A. No.</p> <p>23      MR. SCHULZE: Let's go off the 24 record.</p> <p>25      (Discussion off the record.) [Page 81]</p>

[21] (Pages 78 to 81)

<p>1            GALLAGHER  2        MR. SCHULZE: Let me show it to  3 him. Mark for identification Defendant's  4 Exhibit F. This is a diagram of the visitors  5 entrance through to the visiting room of  6 Shawangunk Correctional Facility.  7        (Defendant's Exhibit No. F,  8 diagram, was marked for identification.  9 Exhibit retained by counsel.)</p> <p>10      Q. I want you to take a look at what  11 has been marked as Defendant's Exhibit F. Is  12 that a true and accurate representation of  13 the area from the visitors entrance through  14 to the visiting room of Shawangunk to your  15 knowledge?</p> <p>16      A. (No response).</p> <p>17      MR. SUSSMAN: If you know. Do  18 you recognize what this is?</p> <p>19      THE WITNESS: This is a map.</p> <p>20      MR. SUSSMAN: Do you know what  21 this is a map of?</p> <p>22      THE WITNESS: This is supposed  23 to be the layout of the prison.</p> <p>24      Q. Is this the layout of Shawangunk?</p> <p>25      A. This is the trailer, yes.</p>	<p>1            GALLAGHER  2 Do you see that?  3        A. Yes.  4        Q. Is that where the first security  5 door you go through is?  6        A. Yes.  7        Q. Then you see an indication F 3010;  8 is that correct?  9        A. Yes.  10      Q. Is that the hallway you walk down  11 to get to the visitors room?  12       A. Yes.  13       Q. Then you see an indication C 1400;  14 is that correct?  15       A. Yes.  16       Q. Is that the general area that  17 you're in before you go into the visiting  18 room?  19       A. Yes.  20       Q. Then you see an area marked  21 C 1410; is that correct?  22       A. Yes.  23       Q. Is that the visiting room?  24       A. Yes.  25       Q. Do you see the indication VM?</p>
<p>[ Page 82 ]</p>	<p>[ Page 84 ]</p>

<p>1            GALLAGHER  2        Q. Do you see where it says entrance  3 on the lower right-hand corner?  4        A. Yes.  5        Q. Is that where you entered the  6 facility?  7        A. Yes, the administration.  8        Q. Do you see a dotted line with a  9 square near it where it says entrance?  10      A. Yes.  11      Q. Is that the desk where you sign  12 in?  13      A. Yes, right here (indicating).  14      Q. To the left of that desk, do you  15 see a door?  16      A. Yes.  17      Q. Is that door open?  18      A. Yes.  19      Q. Does it lead to a hallway?  20      A. It looks like a hallway.  21      Q. Is that hallway where you first  22 talked to Ms. Creen?  23      A. Yes.  24      Q. If you go down that hallway,  25 you'll see the indication F 3009 on the map.</p>	<p>1            GALLAGHER  2        A. Yes.  3        Q. Is that where the vending machines  4 are?  5        A. Yes.  6        MR. SUSSMAN: There's two areas  7 marked VM.  8        Q. There's vending machines on both  9 sides of that room; is that correct?  10      A. Yes.  11      Q. This is where you were emptying  12 the machines initially; is that correct?  13      A. Yes.  14      Q. Then on the other side of this map  15 is an area referred to as staff dining. Do  16 you see that?  17      A. Yes.  18      Q. Is that what you have been  19 referring to as the employee lounge?  20      A. Yes.  21      Q. Are there vending machines in that  22 area also?  23      A. Yes.  24      Q. Do you see the room marked B 1353;  25 is that correct?</p>
<p>[ Page 83 ]</p>	<p>[ Page 85 ]</p>

[22] (Pages 82 to 85)

<p>1                   <b>GALLAGHER</b></p> <p>2   A. (No response).</p> <p>3   <b>Q.</b> Next to staff dining?</p> <p>4   A. Yes.</p> <p>5   <b>Q.</b> There are two indications of VM; 6 is that correct?</p> <p>7   A. Yes.</p> <p>8   <b>Q.</b> Is that where the vending machines 9 are?</p> <p>10   A. Yes.</p> <p>11   <b>Q.</b> Then when you exited the facility, 12 you went back down the hallway marked C3A?</p> <p>13   A. Yes.</p> <p>14   <b>Q.</b> Out through the security gates, 15 past the desk and out the entrance; is that 16 correct.</p> <p>17   A. Yes, yes.</p> <p>18        MR. SUSSMAN: Do you have 19 copies or are these your copies?</p> <p>20        MR. SCHULTZE: This here is my 21 copy. One had to be redacted. I can't give 22 you that one.</p> <p>23        MR. SUSSMAN: No problem.</p> <p>24        MR. SCHULZE: That's all I got 25 unless you have something.</p>	<p>1                   <b>STATE OF NEW YORK )</b></p> <p>2                    ss:</p> <p>3                   <b>COUNTY OF ROCKLAND)</b></p> <p>5</p> <p>6       I, KEN GALLAGHER, the witness herein, 7 having read the foregoing testimony of the 8 pages of this deposition, do hereby certify 9 it to be a true and correct transcript, 10 subject to the corrections, if any, shown on 11 the attached page.</p> <p>12                   oOo</p> <p>13</p> <p>14</p> <p>15</p> <p>16                   <b>KEN GALLAGHER</b></p> <p>17</p> <p>18</p> <p>19</p> <p>20       Subscribed and sworn to before me 21 this _____ day of _____, 200_____.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1                   <b>GALLAGHER</b></p> <p>2        MR. SUSSMAN: I don't have any 3 questions for the witness. The record will 4 note it was federal stips.</p> <p>5        MR. SCHULZE: Okay.</p> <p>6        MR. SUSSMAN: I will get a copy 7 so he can read and sign the original.</p> <p>8        MR. SCHULZE: Yes.</p> <p>9        (TIME NOTED: 11:55 A.M.)</p> <p>10                  oOo</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1                   <b>STATE OF NEW YORK ) Pg_of_Pgs</b></p> <p>2</p> <p>3                   ss:</p> <p>4                   <b>COUNTY OF ROCKLAND)</b></p> <p>5       I wish to make the following changes, for 6 the following reasons:</p> <p>7       PAGE LINE</p> <p>8       ____ CHANGE: _____</p> <p>9       ____ REASON: _____</p> <p>10      ____ CHANGE: _____</p> <p>11      ____ REASON: _____</p> <p>12      ____ CHANGE: _____</p> <p>13      ____ REASON: _____</p> <p>14      ____ CHANGE: _____</p> <p>15      ____ REASON: _____</p> <p>16      ____ CHANGE: _____</p> <p>17      ____ REASON: _____</p> <p>18      ____ CHANGE: _____</p> <p>19      ____ REASON: _____</p> <p>20      ____ CHANGE: _____</p> <p>21      ____ REASON: _____</p> <p>22      ____ CHANGE: _____</p> <p>23      ____ REASON: _____</p> <p>24      ____ CHANGE: _____</p> <p>25      ____ REASON: _____</p>
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[Page 89]

[23] (Pages 86 to 89)

1  
 2 STATE OF NEW YORK )  
 3 ss:  
 4 COUNTY OF ROCKLAND )  
 5 I, IRMA K. NAVARRO, a Shorthand  
 6 Reporter and Notary Public within and for the  
 7 State of New York, do hereby certify:  
 8 That the foregoing proceedings  
 9 were taken down by me in shorthand and  
 10 thereafter transcribed under my direction and  
 11 supervision, and that the within transcript  
 12 is a true record of such proceedings.  
 13 I further certify that I am not  
 14 related to any of the parties to this action  
 15 by blood or marriage, and that I am in no way  
 16 interested in the outcome of this matter.  
 17 IN WITNESS WHEREOF, I have  
 18 hereunto set my hand this 12th day of  
 19 November, 2007.  
 20  
 21  
 22 IRMA K. NAVARRO  
 23  
 24  
 25

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